

Sunset Public Hearing Questions  
**Board of Occupational Therapy**  
Created by Section 63-13-216, Tennessee Code Annotated  
(Sunset Termination June 2019)

1. Provide a brief description of the board, including information about its purpose, statutory duties, and administrative attachment.

The Board of Occupational Therapy was created in 2007 by the State Legislature to succeed the Board of Occupational Therapy and Physical Therapy Examiners and its two committees (Committee of Occupational Therapy and Committee of Physical Therapy). Its mission is to safeguard the health, safety, and welfare of Tennesseans by requiring those who practice occupational therapy within this state to be qualified. The Board interprets the laws, rules, and regulations to determine the appropriate standards of practice in an effort to ensure the highest degree of professional conduct. The Board is authorized to issue licenses to qualified candidates who have completed appropriate education and successfully completed required examinations. The Board is responsible for the investigation of alleged violations of the Practice Act and rules and is responsible for the discipline of licensees who are found guilty of such violations.

The administrative staff of the Division of Health Related Boards supports the Board by issuing licenses and renewals to those Occupational Therapists (OT) and Occupational Therapy Assistants (OTA) who meet the requirements of the law and rules, and collecting fees on behalf of the board. Renewal notices are mailed from the board's administrative office forty-five (45) days prior to the expiration of the license to the current address on record. If a licensee has "opted in" to receive renewal notification via email, an email will be sent out to the licensee reminding them to renew their license approximately forty-five (45) days prior to the expiration date.

The five (5) member Board has a statutory requirement to meet once a year, however the board generally meets three (3) times a year to conduct administrative business. The meetings are open to the public. All members of the Board are appointed by the Governor and serve three (3) year terms.

2. Provide a list of current board members. For each member indicate how the member's presence complies with Section 63-13-216 (b) and (c), *Tennessee Code Annotated*. Please indicate each member's race and gender and which members, if any, are 60 years of age or older, as referenced in 63-13-216 (k), *Tennessee Code Annotated*.

<b>Board Member Name</b>	<b>60+ Years</b>	<b>*Minority</b>	<b>Non-Minority</b>	<b>Male</b>	<b>Female</b>	<b>Grand Division</b>
<b>Amanda D. Newbern, OT Rutherford County</b>			<b>X</b>		<b>X</b>	<b>Middle</b>
<b>Anita M. Tisdale, OT Knox County</b>			<b>X</b>		<b>X</b>	<b>East</b>
<b>William A. Daniel Citizen Member Shelby County</b>			<b>X</b>	<b>X</b>		<b>West</b>
<b>Marilyn D. Franklin, OTA Rutherford County</b>	<b>X</b>	<b>X</b>			<b>X</b>	<b>Middle</b>
<b>Anita W. Mitchell, OT, PhD Shelby County</b>			<b>X</b>		<b>X</b>	<b>Shelby</b>
<b>TOTALS</b>	<b>1</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>4</b>	

3. Are there any vacancies on the board? If so, what steps have been taken to fill those vacancies? Have any members been removed from the board under the provisions of Section 63-13-216(j), *Tennessee Code Annotated*?
  - a. There are no vacancies on the Board. No board member has been removed pursuant to the provisions of Section 63-13-216(j), *Tennessee Code Annotated*.
4. How many times did the board meet in the last two years? How many members were present at each meeting?
  - a. The Board of Occupational Therapy met four (4) times in FY2017 and also met four (4) times in FY2016.

<b>Meeting Dates FY16</b>	<b>Members Present</b>	<b>Meeting Dates FY17</b>	<b>Members Present</b>
<b>August 20, 2015</b>	<b>4</b>	<b>September 22, 2016</b>	<b>5</b>
<b>December 4, 2015</b>	<b>3</b>	<b>December 15, 2016</b>	<b>3</b>
<b>March 16, 2016</b>	<b>3</b>	<b>March 16, 2017</b>	<b>4</b>
<b>June 16, 2016</b>	<b>5</b>	<b>April 17, 2017</b>	<b>3</b>

5. What per diem or travel reimbursement do members receive? How much was paid to board members during the last two years?
  - a. Board members receive a per diem rate of \$100.00 per day plus reimbursement of travel expenses for adjusted mileage rates, hotel, and meals.

**Board of Occupational Therapy Per Diem and Travel Reimbursement**

	<b>FY2016</b>	<b>FY2017</b>
<b>Per Diem</b>	<b>\$700.00</b>	<b>\$1,000.00</b>
<b>Mileage</b>	<b>835.36</b>	<b>1,676.96</b>
<b>Hotel</b>	<b>1,397.79</b>	<b>1,478.95</b>
<b>Meals</b>	<b>288.00</b>	<b>553.50</b>
<b>Total</b>	<b>\$3,221.15</b>	<b>\$4,709.41</b>

6. What were the board's revenues and expenditures for the last two years? Does the board carry a balance and, if so, what is the total of that balance? If expenditures have exceeded revenues, and the board does not carry a balance, what was the source of the revenue for excess expenditures?

<b>Fiscal Year</b>	<b>FY2017</b>	<b>FY2016</b>
<b>Revenue</b>	<b>\$218,750.00</b>	<b>\$224,185.30</b>
<b>Expenditures</b>	<b>\$184,007.60</b>	<b>\$168,386.84</b>
<b>Carryover</b>	<b>\$383,758.43</b>	<b>\$377,422.63</b>

7. Has the board promulgated rules? If so, please cite the reference.
  - a. The Board has the authority to promulgate rules under Tenn. Comp. R. & Regs., Chapter 1150-02.
8. Is the board subject Sunshine Law requirements (Section 8-44-101, *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the board have for informing the public of its meetings and making its minutes available to the public? If available, please provide a link to board meeting minutes.
  - a. The Board of Occupational Therapy is subject to the Sunshine Law requirements. The Board has a website which it maintains on the Department of Health's website at <https://www.tn.gov/health/health-program-areas/health-professional-boards/opt-board/opt-board/about.html> .

- b. The Board's internet website is an excellent location to find valuable board information for licensees, applicants, and the general public about the duties and responsibilities of the board, license verifications, board rules, regulations and policy statements, licensure information and instructions on how to apply for a license, board publications including application forms and newsletters to licensees, board minutes and meeting schedule.
- 9. Does the board have any policies in place to address potential conflicts of interest by board members, board employees, or other state employees who work with the board in any capacity? Please provide a description of those policies.
  - a. The Board has a conflict of interest policy. A copy of this policy is signed by every Board member and Board consultant. Board members are required to sign a conflict of interest statement upon appointment or as soon as practical and annually thereafter. The conflict of interest policy is also reviewed with the Board at the beginning of every Board meeting and a copy is maintained in each member's manual. Board members are also expected to recuse themselves from participating in board matters in which they have a conflict of interest.
  - b. Board employees or other state employees who work with the board also have a conflict of interest policy which is signed annually.
- 10. What were the board's major accomplishments in the last two years?
  - a. The Board met with representative(s) of Department of Mental Health and Substance Abuse Services (DMHSAS) to put in place efforts to ensure collaborative compliance among the board's licensees to implement The Kenneth and Madge Tullis, MD Suicide Prevention Training Act, Public Chapter No. 396.
  - b. The Board voted to approve a fee reduction in license renewal fees for occupational therapists and occupational therapy assistants in Rule Chapter 1150-02-.06 from \$110.00 to \$85.00 and \$80.00 to \$60.00 respectively.
  - c. The Board created a task force to review board rules with a view to identifying areas in the rules that might need to be changed or updated, and also to bring the rules current to the current practices of telehealth and educational standards from educational bodies, which are new standards that should be reflected in the rules.
  - d. Finally, the board reviewed and voted approval to revise its policy for licensees who may have practiced on a lapsed or expired license, to bring policy in compliance with Public Chapter 763 on payment of past due renewal fees for license reinstatement.

11. Please provide a list of all fees collected by the board and indicate whether these fees were established through rule or through legislative statute.
- a. The fees authorized by statute are established by the Boards and modified by rules that are approved by joint government operations committee

<b>Fee Schedule:</b>	<b>OT</b>	<b>OTA</b>
<b>(a) Application</b>	<b>\$ 25.00</b>	<b>\$ 15.00</b>
<b>(b) Duplicate License</b>	<b>\$ 25.00</b>	<b>\$ 25.00</b>
<b>(c) Endorsement/Verification</b>	<b>\$ 25.00</b>	<b>\$ 25.00</b>
<b>(d) Late Renewal Fee</b>	<b>\$ 15.00</b>	<b>\$ 15.00</b>
<b>(e) Limited Permit</b>	<b>\$ 25.00</b>	<b>\$ 25.00</b>
<b>(f) Renewal (biennial)</b>	<b>\$110.00</b>	<b>\$ 80.00</b>
<b>(g) Registration</b>	<b>\$ 40.00</b>	<b>\$ 30.00</b>
<b>(h) State Regulatory Fee (biennial)</b>	<b>\$ 10.00</b>	<b>\$ 10.00</b>
<b>(i) Certificate Fee</b>	<b>\$ 35.00</b>	<b>\$ 30.00</b>
<b>(j) Inactive License (biennial)</b>	<b>\$ 25.00</b>	<b>\$ 25.00</b>

12. How many licensed occupational therapists are there in Tennessee? Are they all under the authority of the board? If not, what types of practitioners are not included? Should they be included under the board's authority?
- a. There are 2762 Occupational Therapists and 1541 Occupational Therapy Assistants in the State of Tennessee. All licensees are under the Board's authority

13. How many new licenses and how many renewals has the board issued during the last two years? How does the board ensure that licensees meet all licensure requirements?

<b>Occupational Therapists</b>	<b>FY 2016</b>	<b>FY2017</b>
<b>New Licenses</b>	<b>215</b>	<b>221</b>
<b>Renewals</b>	<b>1099</b>	<b>1113</b>

<b>Occupational Therapy Assistants</b>	<b>FY 2016</b>	<b>FY2017</b>
<b>New Licenses</b>	<b>141</b>	<b>174</b>
<b>Renewals</b>	<b>571</b>	<b>600</b>

14. The board is authorized to issue limited permits under the provisions of Section 63-13-205, *Tennessee Code Annotated*. What is a limited permit? How many limited permits were issued in the last two years? How many people holding limited permits were later able to retain a full license?
- a. A limited permit is issued to an applicant who has successfully completed all educational and field experience requirements and who has not taken and passed the National Board for Certification in Occupational Therapy (NBCOT) examination but has met all other criteria for licensure. A limited permit allows the permit holder to practice under the supervision of a licensed occupational therapist and can only be obtained once and is non-renewable. A limited permit is valid until the permit holder passes or fails the board examination, or of the permit holder fails to take the board examination within ninety (90) days of issuance.

**FY17**

Limited permits issued – 21

Upgraded to full license – 16

**FY16**

Limited permits issued – 4

Upgraded to full license – 2

15. How many licenses were issued under reciprocity in the last two years? How did the board ensure that the other state's or country's standards met Tennessee's licensing requirements?
- a. The Board issued 168 licenses by reciprocity in FY2016 and 152 licenses by reciprocity in FY2017. All applicants applying by reciprocity must meet the same requirements as does an individual applying for initial licensure, with the addition that a verification of licensure must be sent from each state from which the applicant has ever held a license and verification that the license from the other state is active and in good standing.
  - b. The educational credentials of an applicant who has attended school in another country must be evaluated by a board-approved evaluating agency to ensure that education obtained is substantially equivalent to that obtained by a domestic trained applicant.
16. How many license applications did the board deny in the last two years? What were the reasons for denial?
- a. The board did not deny a license application in the last two years.

17. How many licenses did the board revoke or suspend during the last two years? What were the reasons for the revocations or suspensions? Has anyone been cited for practicing without a license? If yes, please provide relevant additional information.
- The Board did not revoke a license in the past two years.
  - Six licenses were suspended for Tennessee Student Assistance Corporation (TSAC) violations in FY16 and FY17.
  - Two practitioners were cited for practicing without a license in FY16 and FY17.
18. How many complaints or accusations did the board receive and investigate during the last two years? What kinds of complaints or accusations were received? What was the source of complaints? How many resulted in some form of remedial action being taken by the board?

**2017 Complaints**

Abuse/Neglect	2
Care of Services	1
Falsification of Records/Reports	3
Unqualified Personnel	1
Fraud/False Billing	3
Criminal Charges	2
Unlicensed Practice	1
Unprofessional Conduct	8
Lapsed License	
Criminal Conviction	1

**2016 Complaints**

Care of Services	2
Unlicensed Practice	1
Unprofessional Conduct	5

**2017 Remedial Actions**

Complaints resulting in formal discipline – 5  
Complaints resulting in non-public discipline – 2

**2016 Remedial Actions**

Complaints resulting in formal discipline – 2  
Complaints resulting in non-public discipline – 1

19. Describe the process by which the board receives, handles, and tracks complaints. Are there written procedures? How are complaints assessed and prioritized? Is a complaint log maintained? At what point is a complaint closed?

- a. The Office of Investigations in the Bureau of Health Licensure and Regulations receives all complaints against any health professional licensed by the Health Related Boards. Any complaint received by the Board is referred to the Office of Investigations.
  - b. Complaints are triaged at intake to ensure that emergency issues are handled immediately, with investigations commencing on the same and/or following day. Routine complaints are rated according to the level of seriousness, entered into a tracking system, and reviewed by a Board consultant and department attorney.
  - c. Written procedures are in place to serve as guidelines for the effective investigation and preparation of the necessary evidence for purposes of prosecution.
  - d. A complaint can be closed at initial review and/or after an investigation. A complaint is closed when one of the following occurs: 1) the investigation could not substantiate a violation had occurred, 2) a letter of warning or concern is issued to the licensee by the Board consultant, or 3) the Board takes action against the licensee.
20. What steps has the board taken to educate the public, consumers, and license holders about how to file a complaint? When considering enforcement actions taken by the board in the last two years, how did the board become aware of the situations resulting in enforcement actions?
- a. The Tennessee Department of Health maintains a website at <https://www.tn.gov/health/health-program-areas/health-professional-boards/pt-board/pt-board/complaints.html> which provides consumers with an in-depth description of the complaint process, including how to file a complaint and what can be expected from the Department of Health.
  - b. Pursuant to T.C.A. 63-1-117, the identity of the complainant is confidential and cannot be disclosed. Complaints can be filed by patients, family members, peers, health care facilities, law enforcement, the news media, and by individuals who request to remain anonymous. Likewise, a practitioner may self-report to the Department of Health.
21. How many contested cases did the board hear during the last two years? How many of these cases were heard by an administrative law judge and reviewed by the board? Of the cases heard, how many resulted in penalties being dismissed? Reduced? Upheld?
- a. The board did not hear any contested case in the last two fiscal years.
22. Does the board have the authority to impose civil penalties? If so, what penalties have been assessed in the last two years and what is the amount of those penalties?
- a. Pursuant to T.C.A. § 63-1-134, the board has the authority to impose civil penalties.



- b. The board has assessed civil penalties for in the total amount of \$1,840 for FY2017 and \$3,100 for FY2016.
- 23. What reports does the board prepare on its operations, activities, and accomplishments and who receives copies of these reports?
  - a. To promote the mission of the Department of Health which is to protect, promote and improve the health and prosperity of the people in Tennessee, the Board's administrative office has established benchmarks for the processing of applications and renewals.
  - b. The Health Related Boards' role in that mission is to ensure that only the best, most qualified practitioners provide healthcare services in the state. In order to balance that obligation with our desire to provide excellent customer service to healthcare providers, the Health Related Boards has established benchmarks to assure that applications for licensure are received, processed and processed in a timely manner.
  - c. The application benchmark is one hundred (100) days from the date the application is received in the administrative office to issuance of licensure. The benchmark for renewals is fourteen (14) days.
  - d. Twice a year, a benchmark report is prepared and reviewed to determine if board staffs are meeting those benchmarks. Relevant data is collected twice yearly by the director from reports generated by the licensing system used by the Health Related Boards. Data is generated in an excel spreadsheet. The benchmark report is reviewed by the Director of the Division of Health Related Boards who validates and verifies collected data manually. Report is forwarded to the Assistant Commissioner for the Bureau of Health Licensure and Regulations under which the Health Related Boards are housed.
- 24. Describe any items related to the board that require legislative attention and your proposed legislative changes.
  - a. None at this time.
- 25. Should the board be continued? To what extent and in what ways would the absence of the board affect the public health, safety, or welfare of Tennessee citizens?
  - a. The Board of Occupational Therapy was established by the General Assembly for the purposes of protecting the public health, safety, and welfare and providing for state administrative control, supervision, licensure and regulation of the practice of occupational therapy.
  - b. Licensed occupational therapists and assistive personnel engage in therapeutic use of everyday life activities to address the physical, cognitive, psychosocial and sensory aspects of an individual's or group's performance in order to support engagement in occupations that affect health, well-being and quality of life. They perform interventions and procedures that promote or enhance safety and

performance in activities of daily living and social participation, including development, remediation or compensation of behavioral skills, and education and training of individuals, family members, caregivers and others in care coordination of clients.

- c. Occupational therapists assist clients to optimize their independence and their ability to accomplish their daily activities following an injury or in situations of physical impairment. In carrying out these functions, occupational therapists are authorized to use physical and thermal agent modalities, to prevent, recognize, evaluate, manage, dispose, rehabilitate, and treat an injury, impairment, or disorder.
- d. Occupational therapists practice in a variety of settings, including, but not limited to, institutional inpatient settings, outpatient settings, and home and community settings, such as homes, group homes, assisted living facilities, schools, early intervention centers, daycare centers, industrial and business facilities, hospices, sheltered workshops, wellness and fitness centers and community mental health facilities.
- e. Occupational therapists undergo formalized training from recognized educational programs which are nationally accredited. They are qualified by a valid and reliable national testing system. Only those who have met minimum standards of proficiency and competency acquired through adequate training and experience can be licensed by the Board, prior to engaging in the practice of occupational therapy.
- f. The continuation of the board will assure the citizens of Tennessee that occupational therapy services are being rendered by licensed and qualified professionals who have met these strict standards. To dissolve the Board could lead to unqualified persons performing those activities.

26. Please provide a list of current board staff.

- a. Administrative Director: Michael Sobowale
- b. Administrator: Loren Givens
- c. Licensing Technician: Sheletha Fykes

27. Please provide a list of all board contracts, detailing each contractor, the services provided, and the amount of the contract.

- a. The Board works with the Tennessee Professional Assistance Program (TnPAP) to provide peer assistance to impaired practitioners in an effort to both protect the public and rehabilitate practitioners who can safely return to the practice of occupational therapy. TnPAP is a non-profit organization under the Tennessee Nurses Foundation. The Board's grant of funds to TNPAP is budgeted at \$17,100.00 per year.